



1540 Broadway
23rd Floor
New York, NY 10036

646.927.5500 main
646.927.5599 fax

August T. Horvath
646-927-5544

August 21, 2018

Via ECF

Honorable Jack B. Weinstein, U.S.S.D.J.
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NYT 11201

Re: Leguette v. Schwan's Company, Case No. 1:17-cv-07599-JBW-ST

Dear Judge Weinstein:

On behalf of defendant Schwan's Company ("Schwan's"), I write in response to Plaintiffs' Motion for Discovery of August 20 (Dkt. 21) and to inform the Court as to Schwan's intentions regarding evidence to be submitted with its forthcoming summary judgment motion.

Schwan's intends to move the Court for summary judgment on September 18, pursuant to the Court's order of July 25 (Dkt. 20). With that motion, Schwan's intends to submit evidence of the recipes for the products at issue. Because the recipes for its products are among Schwan's most closely guarded trade secrets, Schwan's will move the Court for leave to file this information under seal.

Because Schwan's knows what goes into the products at issue, Schwan's does not need laboratory analysis and does not plan to produce laboratory reports. If Plaintiffs seek to take issue with Schwan's recipe information, they may perform laboratory analysis. Schwan's represents that the formulations of the products at issue have not changed since the filing of the original Complaint in this matter on December 31, 2017, so Plaintiffs may purchase new products at retail for their testing. However, laboratory testing may not be able reliably to detect, distinguish, and quantify the relevant ingredients in the finished baked goods at issue. Therefore, Schwan's respectfully suggests that the parties may stipulate, and the Court may accept, Schwan's recipe information as authoritative as to what ingredients are present in the products and in what amounts. This would streamline the October 2 evidentiary hearing by eliminating the need to debate the reliability of laboratory testing and the validity of Plaintiffs' calculation in the Amended Complaint.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "August T. Horvath", written over a horizontal line.

August T. Horvath